IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 2590 OF 1999

Sou. Shyamal Laxman Gadre.. .... Petitioner.

Versus

Maharashtra Vidyalaya,Thane & Anr.... Respondents.

Ms.Naina Thatte i/by Mr. S.M.Oak
for the Petitioner.

Mr. C.R.Sonawane, AGP for Respondent Nos.3 and 4.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 11TH AUGUST, 2006.

P.C. :

The petitioner has prayed for declaration that the retrospective change in pay scale 365-760 to 335-680 is invalid and bad in law and that the revised pay scale 1400-2600 is applicable to the petitioner on and from 1st January, 1986.

2. The petitioner has averred that she was appointed in respondent no.1 School on 28th September, 1972 as a part time Librarian and that she was appointed as full time Librarian from 1st August, 1983 in the pay scale of 365-760. On 2nd September,1989 the state Government decided to revise the pay scale of employees of private

schools with effect from 1st January, 1986. The petitioner states that as per the said resolution the revised pay scale was made applicable to the employees of private schools from 1st January, 1986. As before 1st January, 1986, the petitioner was working as full time Librarian in the pay scale of 365-760, after 1st January, 1986 she was required to be treated in the pay scale of 1400-2600. However, she was treated to be in the pay scale of 335-680 prior to 1st January, 1986 and given pay scale of 1200-2040 after 1st January, 1986. Initially, she filed the writ petition being Writ Petition No. 1450 of 1997 before this Court. The said writ petition was withdrawn by the petitioner with liberty to approach the Deputy Director of Education, Nasik Zone, Nasik for redressal of her grievance. That writ petition came to be disposed of on 12th June, 1997, thus, as withdrawn.

3. The petitioner than made representation to the Deputy director of Education, who by his order dated 28th July, 1997 confirmed that her pay scale has rightly been fixed in 1200-2040 and that she is not entitled to pay scale of 1400-2600.

4. In response to the writ petition, the respondent no.2 has filed reply affidavit. It is stated that the petitioner was appointed in the respondent no.1 School

as a part time Librarian for the period from 28th September,1972 to 31st July,1983. She became full time Librarian with effect from 1st August, 1983 and consequently became entitled and eligible for the regular pay scale and benefit of service from that date i.e. 1st August, 1983. By placing reliance upon Schedule "C" Part VIII (3) (2) of the Maharashtra employees of Private Schools (Condition of Service) Rules, 1981, it is stated that the Librarian who were appointed on or before 31st August 1978 are entitled to pay scale of 365-760 which is equivalent to pay scale of 1400-2600 as per pay scale of 4th Pay Commission. Since the petitioner's appointment as full time Librarian is not before 31st August, 1978 and is with effect from 1983, she is not entitled to pay scale of 365-760 in the erstwhile scale and rightly reduced by the Deputy Director of Education.

5. The Counsel for the petitioner invited our attention to Rule 7 of the Maharashtra Employees of Private Schools Rules, 1981 which provides that pay for a full time as well as part time amongst other non-teaching staff is as specified in Schedule "C". Counsel relied upon part VIII of Schedule "C" which provides pay scale of 1200-2040 to the Librarian having qualification of Matric or S.C.C. with Certificate in Library Training and scale of 1400-2600 to the Librarian who are Graduate

with the Diploma or Degree in Library Science appointed before 27th December, 1979 (including persons who are graduate with the certificate in Library Training and are appointed on or before 21st August, 1978). Admittedly, the petitioner is not appointed as full time Librarian before 27th December,1979 as provided in Part VIII (3)(ii) of Schedule "C". Obviously, therefore, the petitioner cannot be fixed in a pay scale of 1400-2600. Though in her appointment letter dated 2nd January, 1984 the scale of 365-750 is mentioned by the respondent no.1, obviously, the said scale has wrongly been mentioned as it was not applicable to her having been appointed not before 21st August, 1978.

6. The order of the Deputy director of Education, thus, cannot be said to suffer from any error of law warranting interference of this Court in extra ordinary jurisdiction. Writ petition is dismissed with no costs.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)